

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

CASA DE MARYLAND, INC., *et al.*

Plaintiffs,

v.

MAYORKAS, *et al.*

Defendants.

Civil No. 20-2118-PX

**NOTICE OF SUPPLEMENTAL AUTHORITY TO PLAINTIFFS' MOTION AND
CROSS-MOTION FOR SUMMARY JUDGMENT ON THEIR STATUTORY
APPOINTMENTS CLAIMS**

Plaintiffs hereby notify the Court of a decision on February 7, 2022 by Chief Judge Beryl A. Howell of the District Court for the District of Columbia granting summary judgment to the plaintiffs, and vacating the Broader EAD Rule and the Timeline Repeal Rule, on the basis that purported former Acting Secretaries of the Department of Homeland Security Chad Wolf and Kevin McAleenan did not possess lawful authority to serve in that position, such that the rules are invalid under the Federal Vacancies Reform Act ("FVRA") and the Administrative Procedure Act. *Asylumworks v. Mayorkas*, No. 20-CV-3815 (BAH), 2022 WL 355213, at *8 (D.D.C. Feb. 7, 2022) (citing 5 U.S.C. § 3348(d)(1), 5 U.S.C. § 706(2)(C)); *see id.* at *1 (agreeing with the "reasoned holding" of, *inter alia*, this Court in 486 F. Supp. 3d 928 (D. Md. 2020)). A copy of the decision is attached.

Further, the *Asylumworks* court held that Secretary Mayorkas's ratification of the Timeline Repeal Rule was "void" because the ratification bar in the FVRA "applies to all unauthorized actions taken 'in the performance of any function or duty of a vacant office,'

regardless of whether such functions or duties may be delegated.” *Id.* at *11 (quoting 5 U.S.C. § 3348(d)(2)).

This decision supports Plaintiffs’ arguments that the Broader EAD Rule and Timeline Repeal Rule are invalid because Wolf did not lawfully serve as Acting Secretary of DHS at the time those rules were approved and Secretary Mayorkas’s subsequent ratification of the Timeline Repeal Rule cannot cure this deficiency. ECF No. 107-1 at 10-16; ECF No. 130-1 at 21-30. Accordingly, Plaintiffs request that their motions be granted.

Dated: February 8, 2022

Respectfully submitted,

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